**DATE:** February 3, 2016

**TO:** Mary C. Mayhew, Commissioner, DHHS

**THROUGH:** Phyllis Powell, Director, DLRS

**FROM:** Larry D. Carbonneau, Manager, Health Care Oversight, DLRS

 Richard S. Lawrence, Senior Health Care Financial Analyst, DLRS

**SUBJECT:** Acquisition of the Ambulatory Surgucal Center operated by Coastal Eye Surgery Center, LLC by CESC, LLC to be owned by Coastal Eye Surgery Center, LLC and Covenant Surgical Partners, Inc.

**ISSUE ACTIVATED BY:** The referenced proposal requires Certificate of Need (CON) approval as defined in “The Maine Certificate of Need Act of 2002,” 22 M.R.S.A. §326 et seq., as amended.

**REGISTERED AFFECTED PARTIES:** None

**I. BACKGROUND**

Coastal Eye Surgery Center, LLC (Coastal Eye) is a Maine limited liability company with a principal place of business at 128 Bucksport Road, Ellsworth, Maine 04605. Coastal Eye is licensed as an ASC and is currently wholly-owned by Lawrence Piazza, M.D. Coastal Eye provides the space and equipment for the rendering of a range of surgical eye procedures including but not limited to LASIK/Refractive vision correction, laser assisted and conventional small incision cataract surgery, oculoplastic surgery. YAG laser procedures include capsulotomy and peripheral iridotomy treatments, trabeculoplasty and ophthalmic lid procedures. Approximately 1,300 patients who are primarily located in Hancock and Washington counties are served annually.

Covenant Surgical Partners, Inc. (Covenant) is a Delaware corporation with a principal place of business at 401 Commerce Street, Suite 600, Nashville, Tennessee, 37219. Covenant is a privately-held successful owner and operator of single and limited specialty ambulatory surgery centers with physician partners around the country. Covenant has a variety of shareholders including several health care and financial executives. Covenant’s mission includes the delivery of quality patient care in an efficient and cost effective manner.

CESC, LLC. is a recently formed Delaware corporation that will be the operator of the surgical center. The ownership of this corporation will be 49% by Coastal Eye Surgery Center, LLC and Covenant Surgical Partners, Inc.

This change in ownership is intended to not affect current ophthalmology services, but to provide additional resources and management expertise. Dr. Piazza and his colleagues will continue to provide surgical services in the ASC.

**II. PROJECT DESCRIPTION**

Coastal Eye will establish a new company, named CESC, LLC (Eye Center) and contribute essentially all the assets of Coastal Eye. Covenant will purchase 51% of the assets of the Eye Center. Coastal Eye will receive cash consideration and will hold a 49% interest in the Eye Center. This transaction will not significantly alter the day-to-day operations the Eye Center that will be doing business as Coastal Eye Center. On January 6, 2016 the applicant provided additional information regarding this transaction which is summarized below:

**Step One**

Coastal Eye Surgery Center LLC (“Coastal”) as the owner of a licensed ambulatory surgery center (the “ASC”) located in Ellsworth, ME would contribute all of the assets of Coastal relating to the business of the ASC, including equipment, accounts receivable, contracts, licenses (to the extent assignable) and goodwill to a newly formed Delaware limited liability company (“CESC, LLC”) in exchange for 100% of the membership interests in CESC, LLC.

**Step Two**

Coastal will sell 51% of the membership interests in CESC, LLC to Covenant Surgical Partners, Inc. (“Covenant”) and CESC, LLC will enter into a management agreement with Covenant for Covenant to manage the operations of CESC, LLC.

**Step Three**

Following the purchase by Covenant of 51% of the membership interests in CESC, LLC from Coastal, CESC, LLC will be owned 51% by Covenant and 49% by Coastal.

**III. HIGHLIGHTS**

Letter of Intent dated: November 6, 2015

Technical Assistance meeting held: Waived

CON application filed: November 19, 2015

CON certified as complete: August 7, 2015

Public Information Meeting Held N/A

Public Hearing held: N/A

Preliminary Analysis released: January 14, 2016

**IV. PUBLIC COMMENTS RECEIVED IN RESPONSE TO THE PRELIMINARY ANALYSIS**

No public comments were received following the release of the preliminary analysis.

**V. CERTIFICATE OF NEED UNIT ANALYSIS**

1. **Fit, Willing and Able**

The most recent Federal survey of Coastal Eye Surgery was completed on December 17, 2014. Coastal Eye Surgery is in substantial compliance with the “Regulations governing the Licensing of Ambulatory Surgical Facilities” in the State of Maine.

Covenant Surgical Partners is a privately-held operator of 29 single and limited specialty ambulatory surgery centers with physician partners around the country. In order to determine Covenant’s compliance with the Fit, Willing and Able standard, CONU randomly selected six facilities and requested the most recent Federal/State surveys for the following Covenant “partners”:

|  |  |
| --- | --- |
| Atherton Endoscopy Center | Paramus Surgical Center, LLC |
| 3351 El Camino Real, Suite 220 | 30 West Century Road, Suite 300 |
| Atherton, CA 94027 | Paramus, NJ 07652 |
| Capitol Surgical Center LLC | Surgery Center Plus |
| 6410 Rockledge Drive, Suite 110 | 7430 North Shadeland Avenue, Suite 100 |
| Bethesda, MD 20817 | Indianapolis, IN 46250 |
| Eynon Surgery Center | Wisconsin Laser and Surgery Center |
| 681 Scranton Carbondale Highway | 10200 W. Innovation Drive, Suite 700 |
| Eynon, PA 18403 | Milwaukee, WI 53226 |

The applicant provided the surveys and associated plans of corrections for all deficiencies. All of the surveys were complete and plans of correction were approved. All of the facilities reviewed are certified and in good standing.

1. **Economic Feasibility**

Current providers of medical and surgical services will continue to provide these services. This transaction involves no capital expenditures or construction. No incremental increase in operating costs are anticipated over the next three years. Economic benefits of the transaction include consolidated financial, administrative, regulatory, contracting and human resources management functions allowing physicians at Coastal Eye to concentrate on the practice of medicine and the efficient utilization of its facility and the efficient scheduling of its patients.

Coastal Eye Surgery Center, LLC is profitable as a stand-alone facility. CONU reviewed MaineCare and Medicare utilization statistics for 2013, 2014 and through September of 2015 and concluded that volume has remained fairly consistent for each of the three periods analyzed. CONU requested consolidated balance sheets and consolidated statements of operations to assess Covenant’s financial condition and its capacity to support the project financially over its useful life, in light of the rates the applicant expects to be able to charge for the services to be provided by the project. Based on our review, Covenant has sufficient financial resources to assist Coastal Eye Surgery in the event of unexpected declines in reimbursement and/or utilization.

1. **Public Need**

Coastal Eye Surgery primarily treats Washington County and Hancock County residents who are 65 and over. CONU utilized Muskie School of Public Service’s *Older Adults and Adults with Physical Disabilities: Population and Service Use Trends in Maine 2012 Edition* to analyze the demographic characteristics of these two counties. Washington Counties population age 65+ is expected to increase 40.9% and Hancock Counties population age 65+ is expected to grow by 57.6% between 2010 and 2022. This data is consistent with Maine as a whole whose 65+ population continues to grow at a faster rate than New England or the rest of the nation. Maines median age is the highest in the United States and that trend is projected to continue. Coastal Eye Surgery conducts a wide range of procedures as noted above in the Abstract section. The most common procedure involves cataract surgery are performed primarily on the 65+ population. Coastal Eye Surgery, founded in 2006, performs approximately 2500 procedures each year. Going forward they are expecting to exceed these numbers in the future based on population growth. This demonstrates that there is a demand for surgical services to meet specific health problems in the area. The applicants believe that their current facility has sufficient capacity to meet demand in the foreseeable future.

Providing needed ophthalmology services in the Washington and Hancock County areas will have a positive impact on the health status indicators of the population to be served.

This proposed transaction will have no impact on the accessibility of services as no changes in location or services are part of this transaction. The services affected by the project will be accessible to all residents of the area proposed to be served.

Both entities have quality assurance data systems which allow management to track performance measures on an ongoing basis to ensure quality outcomes for its patients. These systems will remain in place post-merger.

1. **Orderly and Economic Development**

Total health care expenditures are not expected to increase as a result of this transaction. The need for these services is definite and measurable. Current and projected utilization levels of these services make the continuation and availability of these services a necessary component of health care.

State funds should not be impacted by this transaction. There should not be any increased utilization of these services because of this proposed transaction.

Coastal Eye Surgery has provided ophthalmology services in the Washington and Hancock County region since 2006. No planned expansion of infrastructure or services is planned, therefore, it is highly unlikely that a more effective, more accessible or less costly alternatives will become available in the future.

1. **Outcomes and Community Impact**

Coastal Eye Surgery has implemented extensive quality assurance plans and procedures which have passed State of Maine licensure requirements and rigorous review standards. These standards will remain in place and be supplemented by Covenants extensive experience in managing Ambulatory Surgical Centers throughout the United States. CONU requested and received a description of both Coastal Eye Surgery’s and Covenant’s quality assurance programs. This project does not involve an expansion of services and will not negatively affect the quality of care delivered by existing service providers.

1. **Service Utilization**

This application involves the purchase of a majority ownership interest in Coastal Eye by Covenant. The transaction does not result in the addition of new health services or the expansion of existing services. This affiliation will improve quality outcomes, address identified community needs, encourage operating efficiencies and improve the health status of the population in the affected Washington and Hancock county service area. This will have a positive impact on patient care.

**VI. CONCLUSION**

For all the reasons set forth in the Preliminary Analysis and in the record, CONU concludes that the review standards have been satisfied. CONU recommends the approval of the CON.

**VII. RECOMMENDATION**

CONU recommends that this application be **Approved.**